BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	
S. N. G. Pharmacy 2726 Pico Blvd. Los Angeles, CA 90006 Pharmacy Permit No. PHY 45833 and Siamak Davoodi 1455 Glenville Dr. Los Angeles, CA 90035 Pharmacist License No. RPH 47560 Respondents.	Case No. 2756 OAH No. L 2005070030

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on November 28, 2005.

Thomas L. Rinaldi, Deputy Attorney General, represented Complainant Patricia F. Harris, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

Herbert L. Weinberg, Attorney at Law, represented Respondents S. N. G. Pharmacy and Siamak Davoodi. Respondent Siamak Davoodi was present throughout the proceedings.

Amendment of the Accusation

At the beginning of the hearing, Complainant's counsel made a motion to amend the Accusation by revising the number of certain products cited on pages 6 and 7. Without objection, the motion was granted, and the corrections interlineated on the document (Exhibit 1).

Stipulation of the Parties Re Evidence

The parties to this proceeding, in the interest of reducing the amount of documentary evidence to be received at the hearing, stipulated that tables and summaries in lieu of the actual documents could be introduced relating to the second and third causes for discipline. Consequently, Complainant did not introduce in evidence records received from wholesalers as well as those records seized and/or provided by Respondents. It was also stipulated that tables and summaries presented at the hearing had the same evidentiary effect as if the original documents underlying the tables and summaries had been introduced.

Hearing & Case Submittal

Oral and documentary evidence was received and the matter argued. The record was held open. Complainant was allowed until December 8, 2005 to file ten pages of database containing a representative sampling of the information compiled from prescription records obtained from S. N. G. Pharmacy. Respondent was allowed to December 13, 2005 to file a response concerning the filing. Complainant timely filed the materials. No response was received from Respondent. The ten pages are marked as Exhibit 16 and received in evidence.

The matter was submitted on December 14, 2005.

FACTUAL FINDINGS

1. Complainant Patricia F. Harris, Executive Officer of the Board, filed the Accusation in this proceeding in her official capacity.

2. On March 26, 2002, the Board issued Pharmacy Permit No. PHY 45833 to S. N. G. Pharmacy, Siamak Davoodi, President. (Respondent Pharmacy) The Pharmacy Permit was in full force and effect at all times relevant to the charges in this proceeding. A Discontinuance of Business form was filed effective February 10, 2004.

3. On October 3, 1994, the Board issued Pharmacy License No. RPH 47560 to Siamak Davoodi (Respondent Davoodi). The License was in full force and effect at all times relevant to the charges brought in this proceeding. The License will expire on October 31, 2006.

4. Respondent Davoodi was the Pharmacist-in-Charge of Respondent Pharmacy at all times relevant to the charges brought herein.

Controlled Substances

5. Phenergan with Codeine is a Schedule V controlled substance as designated by Health and Safety Code section 11058, subdivision (e) (1), and is categorized as a dangerous drug, pursuant to Business and Professions Code (Code) section 4022, subdivision (a).

Hydrocodone is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e) (4), and categorized as a dangerous drug pursuant to Code section 4022, subdivision (a).

Dangerous Drug

6. "Soma," a brand name for Carisoprodol, is a dangerous drug as designated by Code section 4022, subdivision (c).

Respondent Davoodi's Criminal Conviction

7. On November 10, 2004, Respondent Davoodi, in the Superior Court of California, County of Los Angeles, was convicted, upon his plea of nolo contendere, of two violations of Code section 4076, subdivision (a), dispensing a prescription without correct labeling and/or in an improper container, both misdemeanors. Two other charges of furnishing drugs without a prescription were dismissed as part of a plea bargain. The court placed Respondent Davoodi on summary probation for a period of three years. He was ordered to surrender his "DEA" and pharmacy licenses. He was not allowed to be a pharmacist in charge. Any employer of Respondent Davoodi was to be given a written copy of his employment restrictions. He also was fined and assessed a total of $600. Respondent Davoodi remains on probation.

8. The crime of which Respondent Davoodi was convicted is substantially related to the qualifications, functions or duties of a pharmacist.

S.N.G. Pharmacy

9. S.N.G. Pharmacy was located at 2726 Pico W. Pico Blvd., Los Angeles, California.

10. In 2003 and 2004, the S.N.G. Pharmacy was investigated by a multi-agency health task force known as "HALT" (Health Authority Law Enforcement Task Force.)

11. Deputy Juan Gomez was with the Los Angeles County Sheriffs office and was a task force member in an undercover capacity. On January 20, 2005, he went to the S.N.G. Pharmacy. Upon arrival, he noticed numerous persons loitering on the sidewalk in front of the business. They were complaining about the delay in the pharmacy's opening for business. Some of the persons were selling their medications to each other. Inside the pharmacy there were approximately 30 persons all trying to get their prescriptions filled. Some of them were yelling out the names of the medicines they wanted. Many of the people had slips of paper with numbers on them. As the numbers were called, the persons holding those numbers approached the counter and received their prescription. Officer Gomez walked up to the counter and attempted to place an order. He was told to wait his turn. One of the other people waiting told the officer that he had to write the type of medication he was requesting, his name, address, date of birth and telephone number on a piece of paper and hand it to one of the people behind the counter. The officer found a piece of brown paper

and wrote the information on it. He was seeking to purchase "Soma." He handed the note to a woman behind the counter. She asked him how much "Soma" he wanted. The officer replied he wanted whatever came in a bottle. The lady asked him if 100 pills would be OK. The officer was informed that the cost would be $32.00. He gave her the requested amount of money. She took the piece of paper handed her by the officer and discussed it with several other people behind the counter. Following the discussion, the woman came back to the counter holding a brown plastic bottle with a white cap. The bottle contained numerous white pills with a white non-child-proof cap that could be easily opened. The bottle did not have a label on it. No consultation was held on how to consume the medication nor was an explanation on the dangers associated with this type of medication. She placed the bottle inside a brown paper bag and handed it to the officer. The pills given to the officer were later identified by an expert pharmacist as being 100 pills of "Soma." Following his visit to the pharmacy, Officer Gomez identified a photograph of Respondent Davoodi as one of the persons with whom the woman behind the counter consulted before bringing the medication to the officer. The woman gave Respondent Davoodi the slip of brown paper the officer had given her.

While waiting to get the medication at the pharmacy, Officer Gomez noticed that the people working for the pharmacy were handing customers medications without labels on the containers, were not issuing receipts, were not giving consultations, and were not obtaining signatures from the customers for medications dispensed.

On January 30, 2004, Officer Gomez returned to the S.N.G. Pharmacy with another undercover officer. He attempted to get a medication without a prescription but was told by Respondent Davoodi that he would have to go over to a Dr. Thomas' clinic on Vernon Ave. to get a prescription first. The two officers went to the clinic. Outside that location they met a man named Tyrone to whom they had previously talked at the S.N.G. Pharmacy. Tyrone was asked if he could get any prescriptions so that Officer Gomez could go back to S.N.G. Pharmacy and get drugs. Tyrone said he was out of prescriptions but would have some the following Tuesday. Tyrone he would sell the officer four scripts (prescriptions) for sixty dollars. The prescriptions would be for cough syrup, Vicodin, Xananx, and SOMA.

On February 2, 2003, Officer Gomez returned to the S.N.G. Pharmacy and again purchased "Soma" following the same procedure he followed during his first visit.

Search Warrant

12. On February 9, 2004, a search warrant was issued by the Superior Court of California, Los Angeles County, to search the premises of Respondent S.N.G Pharmacy. A comprehensive search of the premises for books, records, inventory and personnel at the facility was authorized.

13. On February 10, 2004, representatives of the HALT task force served the search warrant on the S.N.G. Pharmacy. Representatives of the Board accompanied the task force representatives and were given exclusive responsibility for the audit of medications found at the pharmacy and determining whether any discrepancies existed between the drugs provided to the pharmacy by drug supply companies and those dispensed by prescription.

14. The Board representatives first inventoried the drugs on hand at the S.N.G. Pharmacy and provided Respondent Davoodi with receipts for the drugs on hand and all books and records of the pharmacy which were taken into the custody by the Board representatives. In addition, Respondent was directed to provide, within 72 hours, all records of disposition and acquisition for dilaudid 4MG brand and generic, all hydrocodone products brand and generic, valium 10MG brand and generic, phenergan with codeine brand and generic, soma brand and generic, and Tylenol # 4 brand and generic from 3/01/02 February 10, 2004.

15. The Board representatives could not complete their work at the pharmacy on February 10, 2004. They returned to site and continued their work on February 23 and 24, 2004. Receipts were again provided Respondent Davoodi. The receipts ran ten pages.

16. The Board representatives then asked all of the companies supplying specified drugs to S.N.G. Pharmacy for their records of the quantities of those drugs so provided. This request was sent to: Major Pharmaceuticals, Master, IVAX, VIP Pharmaceuticals, H.D. Smith, AmeriSource, Anda, Inc., McKesson, Cardinal Distribution, and Insource. Compliance with the request took two to three months to complete.

17. The Board representatives then began an audit of each of the specified drugs that had been supplied to and dispensed by the S.N.G. Pharmacy.

18. The first drug audited was Soma. There were 2000 entries for this drug alone. Only 350 prescriptions could be reviewed each day. It took the Board four months to complete the audit for this drug. To give an indication of the extensive nature of this process, it should be noted that, during the audit period, 1,122,200 Soma tablets had been sent to the pharmacy by its suppliers.

19. The audit process was repeated for each of the other drugs. A substantial number of the Board's staff was involved in this process over a period of months.

20. Examination of the records provided by the drug wholesalers listed above revealed that Respondent Pharmacy had purchased the following quantities of dangerous drugs: 5,308,920 ml. of Phenergan with Codeine; 1,122,200 tablets of Soma; and 1,691,300 tablets of Hydrocodone products.

21. After comparing the records of sales by wholesalers to Respondent Pharmacy to the records of acquisition provided by Respondents, it was determined that Respondents failed to produce acquisition records for the following quantities of dangerous drugs: 3,253,080 ml. of Phenergan with Codeine, 653,300 tablets of Soma, and 799,300 tablets of Hydrocodone products.

22. After comparing the records of sales to Respondent Pharmacy by wholesalers to the disposition records provided by Respondents as well as the Respondent Pharmacy's existing inventory, it was determined that Respondent failed to account for the following

quantities of dangerous drugs 554,490 of Phenergan with Codeine; 149,834 tablets of Soma; and 165,077 tablets of Hydrocodone products. These deficiencies were determined to exist after giving Respondents the benefit of not counting drugs dispensed by Respondents from unlabeled prescriptions. Had the drugs dispensed with unlabeled prescriptions been counted the aforementioned figures would have been increased by the addition of the following amounts: 160,120 ml of Phenergan with Codeine; 45,195 of Soma; and 83,901 tablets of Hydrocodone products.

23. Board representatives found that, of the 600 days included in the audit period, information on what occurred on approximately 200 of those days was missing from the Respondent Pharmacy's records.

Respondent Davoodi's Testimony

24. Respondent has been a pharmacist in the United States for ten years. Prior to that, he was a pharmacist in Israel and Iran.

25. Before opening the S.N.G. Pharmacy in 2002, Respondent Davoodi was the manager and Pharmacist in Charge of a Rite Aide pharmacy in Palm Springs.

26. Respondent is married and has three children. They live together with his mother-in-law and a brother who has cerebral palsy.

27. Respondent has had no other convictions nor administrative actions filed against him.

28. Respondent says he did not explain the absence of records for certain days during the audit period because he was never asked to do so. He felt some of the information might be in the pharmacy records and other records may have been taken by his accountants. He also said that he took some of the records home with him although he acknowledged that this was not permitted by the Board's statutes and regulations.

29. During his testimony, Respondent Davoodi produced a quantity of Respondent Pharmacy's records that he said that he found at home regarding drugs that had been dispensed. (These should have been produced pursuant to the Board's order issued on February 10, 2004.) He said that his reason for producing them at the hearing was to show that other Respondent Pharmacy records may exist.

30. Respondent Davoodi stated that he was unable to refute the evidence presented by the Board because he had no access to the pharmacy's computer. He conceded, however, that he had possession of the computer and that the reason he could not open the computer program was that he had not paid Etreby, the company providing the pharmacy accounting program and consequently he had been locked out of the pharmacy's computer program.

31. Respondent Davoodi admitted refilling prescriptions without writing out the required information when the patients were in a hurry. He also admitted that, if he knew the patient and the person had had prior prescription, he would go ahead and refill it. Respondent denied dispensing prescriptions in unlabeled bottles but conceded that maybe some of the pharmacy techs had put things out in plain, unlabeled bottles.

32. Aside from attempting to create some doubt about the extent of the drug shortages found by the Board's audits, Respondent never specifically challenged the results of the Board's audits of Respondent Pharmacy's records nor did he deny the existence of shortages. His attempts were unavailing given the clear and convincing evidence presented regarding the shortages identified.

Rebuttal Testimony

33. During the hearing in this matter, a Board representative reviewed the Respondent Pharmacy's prescription documents Respondent Davoodi said he found at home and introduced as Respondent's Exhibit B during his testimony. The exhibit included 274 prescription documents. Assuming the validity of the documents, they would not significantly reduce the shortage of drugs identified by the Board's audit. The shortage of Soma would be reduced by 1.9% and Phenergen with Codeine would be reduced by 3.8% and Hydrocodin products by 6.3%.

34. The Audits by the Board representatives of Respondent Pharmacy drugs proved to be a much bigger job than had originally been anticipated. The trend of the analysis showed that often there were differences between the prescription form and information placed on the prescription label. This caused additional work, requiring spread sheets to be prepared, to find if there was information available which permitted the matching of prescriptions with the drugs dispensed.

Cost Bill

35. The Board, pursuant to Code section 125.3, filed a certified statement of costs incurred by the Board in the investigation and prosecution of this proceeding in the amount of $99,356.25.

36. Given the size of the audit, time required going through the documents and preparing appropriate spread sheets for analysis, and number of people involved, the costs incurred by the Board are found to be reasonable as is more fully demonstrated in Paragraphs 13 through 23, 33, and 34 of the Factual Findings.

LEGAL CONCLUSIONS

1. Respondents are subject to disciplinary action under Business and Professions Code sections 4300 and 4301, subdivisions (j), (l), (o), and (p), in conjunction with section 490, on the grounds of unprofessional conduct, as defined in California Code of Regulations, title 16, section 1770, in that Respondent Davoodi was convicted of a crime substantially

related to the qualifications, functions or duties of a pharmacist as more fully set forth in Paragraphs 7 and 8 of the Factual Findings.

2. Respondents are subject to disciplinary action pursuant to Business and Professions Code sections 4300 and 4301, subdivision (o) on the grounds of unprofessional conduct for violating Business and Professions Code sections 4081, subdivision (a), and 4333 in that Respondent Davoodi failed to make pharmacy records available for inspection in that after being requested to provide copies of all records of acquisition and disposition of certain dangerous drugs, he failed to do so as demonstrated by the comparison of amount of drugs provided to the Respondent Pharmacy by the manufacturers and the amounts reflected by records of the Respondent Pharmacy, showing serious discrepancies in the amounts disclosed by Respondents as more fully described in Paragraphs 13 through 21of the Factual Findings.

3. Respondents are subject to disciplinary action pursuant to Business and Professions Code sections 4301, subdivision (o) for violating Business and Professions Code section 4081, subdivision (a) in conjunction with California Code of Regulations, title 16, section 1718 for failing to keep a complete, accurate, and current inventory of dangerous drugs for three (3) years in that Respondents failed to account for the quantities of drugs set forth in Paragraphs 13 through 23 of the Factual Findings.

4. The drug shortages found to exist in this proceeding are significant and cannot be ignored. Respondent has not accepted responsibility for these shortages. In addition there was a complete failure to operate the Respondent Pharmacy in accordance with the applicable rules and regulations of the Board. Although Respondent Davoodi has no other convictions or adverse administrative actions, the seriousness of his conduct constitutes a threat to public health and safety requiring revocation of Respondents' licenses.

5. The costs of investigation and prosecution of this matter by the Board, as set forth in Paragraphs 35 and 36 of the Factual Findings, are found to be reasonable under the circumstances presented.

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ORDER

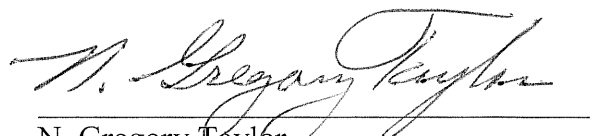
It is hereby ordered that:

1. Pharmacy Permit Number PHY 45833, issued to S.N.G. Pharmacy, Siamak Davoodi, President, is revoked.

2. Pharmacist License Number RPH 47560, issued to Siamak Davoodi, is revoked.

3. Respondents are ordered to pay the Board of Pharmacy the amount of $99,356.25, as the Board's reasonable costs for the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3.

DATED: January 4, 2006.



N. Gregory Taylor
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: S. N. G. Pharmacy 2726 Pico Blvd. Los Angeles, CA 90006 Pharmacy Permit No. PHY 45833 and Siamak Davoodi 1455 Glenville Dr. Los Angeles, CA 90035 Pharmacist License No. RPH 47560 Respondents.	Case No. 2756 OAH No. L 2005070030

DECISION

The attached proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This Decision shall become effective on March 8, 2006.

IT IS SO ORDERED this 6th day of February, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

lcp

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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: S.N.G. Pharmacy 2726 Pico Blvd. Los Angeles, CA 90006 Pharmacy Permit No. PHY 45833 and Siamak Davoodi 1455 Glenville Dr. Los Angeles, CA 90035 Pharmacist License No. RPH 47560 Respondents.	Case No. 2756 OAH No. **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about March 26, 2002, the Board of Pharmacy issued Pharmacy Permit No. PHY 45833 to S.N.G. Pharmacy, Siamak Davoodi, President ("Respondent Pharmacy") The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein. A Discontinuance of Business form was filed effective February 10, 2004.

3. On or about October 3, 1994, the Board of Pharmacy issued Pharmacy License No. RPH 47560 to Siamak Davoodi (Respondent Davoodi). The License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2006 unless renewed.

4. Respondent Davoodi was the Pharmacist-in-Charge of Respondent Pharmacy at all times relevant to the charges brought herein.

JURISDICTION

5. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

6. Section 4300 permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

7. Section 4301 states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

. . . .

"(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances

or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

. . . .

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

"(p) Any conduct that would have warranted denial of a license.

8. Section 4081(a) requires that all records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. It further requires that every pharmacy maintain a current inventory.

9. Section 4333 requires in pertinent part that all prescriptions filled by a pharmacy and other records required by section 4081 shall be maintained on the premises and available for inspection by authorized officers of the law for a period of at least three years. In cases where the pharmacy discontinues business, these records shall be maintained in a board-licensed facility for at least three years.

10. Section 4113(b) provides in pertinent part that the pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

11. Section 118, subdivision (b) states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

12. Section 490 states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

13. Section 1718 of Title 16, California Code of Regulations states: "Current Inventory" as used in Section 4081 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs. [1] The controlled substance inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

14. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions

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1. The current text of this regulation refers to section 4232 of the Code, however, in 1996, the Pharmacy Act was renumbered and the provision which was formerly found at section 4232 is now section 4081.

Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

15. Business and Professions Code section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . the board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

CONTROLLED SUBSTANCES

16. Phenergan with Codeine is a Schedule V controlled substance as designated by Health and Safety Code section 11058(e)(1) and is categorized as a dangerous drug pursuant to section 4022(a). Hydrocodone is a schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and categorized as a dangerous drug pursuant to section 4022(a).

DANGEROUS DRUG

17. "Soma", a brand name for Carisoprodol, is a dangerous drug as designated by section 4022(c).

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

18. Respondents are subject to disciplinary action under sections 4300 and 4301, subdivisions (j), (l), (o) and (p), in conjunction with section 490, on the grounds of unprofessional conduct, as defined in Title 16, California Code of Regulations, section 1770, in that he was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacist. The circumstances are that on or about September 9, 2004, Respondent Davoodi was convicted on a plea of nolo contendere, to two counts of violating Business and Professions Code section 4076(a), a misdemeanor, (mislabeling of prescriptions), in the Superior Court of

Los Angeles, County of Los Angeles, Case No. 4CR02410, entitled *The People of the State of California v. Siamak David Davoodi.*

SECOND CAUSE FOR DISCIPLINE

(Failure to Make Records Available for Inspection)

19. Respondents are subject to disciplinary action pursuant to sections 4300 and 4301(o) on the grounds of unprofessional conduct for violating sections 4081(a), and 4333 in that he failed to make pharmacy records available for inspection. The circumstances are as follows:

a. On February 10, 2004, a search warrant was served on Respondent Pharmacy whereby dangerous drugs and pharmacy records were seized. On that same day the Board requested Respondents provide copies of all records of acquisition and disposition of certain dangerous drugs including those specified in paragraphs 16 and 17 above for the period of time from March 1, 2002 through February 10, 2004.

b. Between March and July of 2004, a request was made for all records of sales of pharmaceutical products to S.N.G. Pharmacy by wholesalers including Major Pharmaceutcals, Master, IVAX, VIP Pharmaceuticals, H.D. Smith, Amerisource, Anda, Inc., McKesson, Cardinal Distribution, and Insource. Examination of the records provided by those wholesalers revealed that Respondent Pharmacy had purchased the following quantities of dangerous drugs: 5,308,920 ml. of Phenergan with Codeine, 1,122,200 tablets of Soma, and 1,691,300 tablets of Hydrocodone products.

c. After comparing the records of sales by wholesalers to Respondent Pharmacy to the records of acquisition provided by Respondents, it was determined that Respondents failed to produce acquisition records for the following quantities of dangerous drugs: 3,253,080 mnl. of Phenergan with Codeine, 653,300 tablets of Soma, and 975,800 tablets of Hydrocodone products.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Current Inventory)

20. Respondents are subject to disciplinary action pursuant to section 4301(o)

for violating section 4081(a) in conjunction with section 1718 of Title 16, California Code of Regulations for failing to keep a complete, accurate, and current inventory of dangerous drugs for three (3) years. The circumstances are as follows:

a. On February 10, 2004, a search warrant was served on Respondent Pharmacy whereby dangerous drugs and pharmacy records were seized. On that same day the Board requested Respondents provide copies of all records of acquisition and disposition of certain dangerous drugs including those specified in paragraphs 16 and 17 above for the period of time from March 1, 2002 through February 10, 2004.

b. Between March and July of 2004, a request was made for all records of sales of pharmaceutical products to S.N.G. Pharmacy by wholesalers including Major Pharmaceutcals, Master, IVAX, VIP Pharmaceuticals, H.D. Smith, Amerisource, Anda, Inc., McKesson, Cardinal Distribution, and Insource. Examination of the records provided by those wholesalers revealed that Respondent Pharmacy had purchased the following quantities of dangerous drugs: 5,308,920 ml. Of Phenergan with Codeine, 1,122,200 tablets of Soma, and 1,691,300 tablets of Hydrocodone products.

c. After comparing the records of sales to Respondent Pharmacy by wholesalers to the disposition records provided by Respondents as well as the Respondent Pharmacy's existing inventory, it was determined that Respondent failed to account for the following quantities of dangerous drugs: 554,730 ml. of Phenergan with Codeine, 149,834 tablets of Soma, and 171,312 tablets of Hydrocodone products.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Permit Number PHY 43144, issued to S.N.G. Pharmacy, Siamak Davoodi President;

2. Revoking or suspending Original Pharmacist License Number RPH 30586, issued to Siamak Davoodi;

3. Ordering Respondents to pay the Board of Pharmacy the reasonable costs

of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 4/7/05

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant